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11 **UNITED STATES DISTRICT COURT**
12 **EASTERN DISTRICT OF WASHINGTON**
13 **AT RICHLAND**

14 Ellena Sanchez,

15 Plaintiff,

16 v.

17 US Cellular, Inc. a for-profit
18 corporation, USCC Services, LLC, a
19 for-profit limited liability corporation,
20 Darrell Philos and his community
21 property, Tabatha McKay and her
22 community property, and Erryn
23 Anderson and her community property,

24 Defendants.

NO. 20-5249

COMPLAINT FOR DAMAGES

25 Plaintiff by and through her undersigned attorney of record, alleges as follows:

26 **I. PARTIES**

1. Plaintiff is and, at all times relevant hereto, was a resident of Benton
County, Washington.

1 2. Defendants, US Cellular and USCC Services, LLC (collectively “Defendant
2 US Cellular”) are and, at all times relevant hereto, were a for-profit corporation
3 and limited liability corporation, respectively, doing business and having an office
4 for the transaction of business in Benton County, Washington,
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6 3. Defendant, Darrell Philos (“Defendant Darrell”) was, by information and
7 belief, and at all times relevant hereto, is a resident of Tulsa County, Oklahoma.
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9 4. Defendant, Tabatha McKay (“Defendant Tabatha”) was, by information
10 and belief, and at all times relevant hereto, is a resident of Wisconsin.
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12 5. Defendant, Erryn Anderson (“Defendant Erryn”) was, by information and
13 belief, and at all times relevant hereto, is a resident of Jackson County, Oregon.
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15 **II. JURISDICTION AND VENUE**

16 6. This action is properly brought before the United States District Court for
17 the Eastern District of Washington at Richland pursuant to 28 U.S. C. §1332(a) on
18 the basis of diversity of citizenship and on the basis that the amount in controversy
19 exceeds the jurisdictional amount of \$75,000 as provided therein, and is between
20 Plaintiff, who resided and currently resides in Benton County, and Defendants,
21 who reside in states other than Washington.
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1 7. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1) because a substantial
2 part of the events or omissions giving rise to the claims occurred at Richland,
3 Washington.

4 8. This Court has jurisdiction over this matter because Defendant USCC
5 resides, transacts business and has an office for the transaction of business in King
6 county and as such this Court has jurisdiction over the subject matter and the
7 parties involved and is the proper venue for this proceeding pursuant to RCW
8 4.12.025 and LCR 82.
9

10 **III. FACTUAL ALLEGATIONS**

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13 9. Plaintiff began working for Defendants in 2007 as a retail wireless
14 salesperson and worked her way up to a retail area sales manager.

15 10. Plaintiff is a Mexican-American female.

16
17 11. Plaintiff did satisfactory work during her employment and was qualified to
18 do every position that she held with Defendants.

19 12. Defendants Darrell, Erryn and Tabatha were Plaintiffs supervisors with
20 authority to affect her work conditions, including, but not limited to, work hours,
21 pay rates and termination.
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1 13. Plaintiff suffered from medical conditions that constitute a disability as
2 defined in Washington Law Against Discrimination (“WLAD”), RCW 49.60, et.
3 seq.

4 14. Plaintiff’s medical conditions were chronic and required her to obtain
5 medical treatment from her physicians, at least, twice a year.
6

7 15. Despite Plaintiff’s medical conditions and disabilities, she was able to, and
8 did, perform the essential duties of her job with accommodations.
9

10 16. Since on, or about February until May of 2020, Defendants initially allowed
11 Plaintiff Family Medical Leave Act (“FMLA”) leave and intermittent leave based
12 on her doctor’s recommendations.
13

14 17. Since on, or about February until May of 2020, Defendants initially allowed
15 Plaintiff accommodations for her disability in the form rest breaks throughout the
16 day and a consistent lunch break so she could have meals throughout the day.
17

18 18. Plaintiff gave written and oral notice to defendants of her disability and
19 serious health conditions and her need for accommodations.
20

21 19. Beginning on, or about, May 2020, Defendants required Plaintiff to work
22 through the day without breaks even after plaintiff gave notice of her need for
23 accommodations.
24
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1 20. By not respecting Plaintiffs restrictions, Defendants exacerbated and
2 worsened her medical conditions.

3 21. Plaintiff reported to Tabatha that Defendant Darrell was not respecting her
4 accommodations and that he made negative comments about Plaintiffs restrictions
5 and requests for accommodations.
6

7 22. Defendants failed to engage in the interactive process to provide
8 appropriate accommodations to Plaintiff for her disabilities.
9

10 23. Defendant Darrell made racist offensive comments towards plaintiff when
11 referring to Mexican-Americans employees.
12

13 24. On or about July of 2020, Plaintiff reported racist comments to Defendant
14 US Cellular, Defendant Erryn and Defendant Tabatha.

15 25. Defendants failed to take any action regarding the reported racist
16 comments.
17

18 26. On or about July 2020, Plaintiff refused to agree to terminate employees
19 based on what she believed were illegal, false and fraudulently-induced
20 terminations and agreements by Darryl. Plaintiff reported this activity to
21 Defendant Tabatha and Defendant Erryn.
22

23 27. Defendants terminated Plaintiff on July 30, 2020.
24
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1 28. Defendants gave more favorable treatment to employees who did not have
2 disabilities, did not have a serious health condition, did not request protected time
3 off from work, were not Mexican- American, and did not make complaints of
4 racial discrimination, which included, but is not limited to, not being terminated.
5

6 29. Plaintiff's disability, FMLA requests, accommodations requests, race,
7 complaints of illegal activity and complaints of racial discrimination were a
8 substantial factor in Defendants' decision to terminate Plaintiff.
9

10 30. Plaintiff's race and her complaints of racial discrimination were also a
11 motivating factor in Defendants' decision to terminate Plaintiff.
12

13 31. In any given year, including the year immediately preceding her
14 termination, Plaintiff worked for Defendants at least 1,250 hours.
15

16 32. Plaintiff was employed at Defendant's worksite that had over fifty (50)
17 employees within a 75-mile radius and each of these employees worked for each
18 working day during 20 or more calendar workweeks in the current or preceding
19 year.
20

21 33. Defendants are covered employers for the purposes of WLAD and FMLA.

22 34. Since Plaintiff started working for Defendants, she has been an employee
23 covered and eligible for benefits under the and WLAD and FMLA.
24

25 **IV. CAUSES OF ACTION**
26

1 35. The foregoing paragraphs are realleged and incorporated by reference
2 hereinafter in each cause of action that follows.

3 **COUNT ONE**

4 **Violation of Federal and Washington State Law Against Discrimination**

5 36. Defendant violated the Washington Law Against Discrimination
6 (“WLAD”), RCW 49.60, et. seq., by undertaking adverse employment actions,
7 creating a hostile work environment, retaliating against Plaintiff, and ultimately
8 terminating her.
9

10 37. Plaintiff was doing satisfactory work, but was targeted due to her disability,
11 accommodation requests, race and her complaints of racial discrimination.
12 Defendants also failed to engage in the interactive process and failed to provide
13 adequate accommodations.
14
15

16 **COUNT TWO**

17 **Violation of Family Medical Leave Act**

18 38. Defendants willfully, or with reckless disregard, violated the FMLA by
19 retaliating, interfering and/or denying Plaintiff statutorily-protected benefits,
20 including but not limited to:
21

22 39. Failing to provide Plaintiff with proper notices of her eligibility for
23 protected leave and the procedures to request the leave;
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1 40. Not allowing Plaintiff to take protected leave to take care of her serious
2 health condition and interfering with her right to take protected leave;

3 41. Retaliating against Plaintiff for taking medical leave; and/or

4 42. Terminating Plaintiff for requesting and/or taking protected leave.
5

6 **COUNT THREE**

7 **Wrongful Termination in Violation of Public Policy**

8 43. Defendants wrongfully terminated Plaintiff in violation of public policy by
9 retaliating against Plaintiff and terminating her for race, making complaints of
10 racial discrimination, making complaints of illegal activity, and taking protected
11 medical leave and for requiring medical accommodations.
12

13 **COUNT FOUR**

14 **Failure to Accommodate**

15 44. Defendants violated Washington State Law against discrimination by
16 failing to accommodate Plaintiff's medical conditions and disabilities and firing
17 her for needing and requesting accommodations.
18

19 **COUNT FIVE**

20 **Intentional infliction of physical injury and aggravation pursuant to**
21 ***Goodman v. Boeing Co.*, 127 Wn.2d 401, 899 P.2d 1265 (1995), amended (Sept.**
22 **26, 1995)**

23 45. Defendants made Plaintiff perform work that went directly against her
24 physicians' orders and went beyond her physical limitations despite Plaintiff's
25 requests for accommodations and time off. Defendants had direct knowledge of
26

1 Plaintiff's physicians' orders and Plaintiff's physical limitations. This work
2 further injured and aggravated Plaintiff's medical condition and disabilities.
3 Plaintiff was injured and/or worsened as a proximate cause of Defendants' actions
4 in amounts to be proven at trial.
5

6 **COUNT SIX**

7 **42 U.S.C. § 1981 Race Discrimination**

8 46. Defendants discriminated and retaliated against Plaintiff in maintaining and
9 keeping her contractual relationship with Defendants by terminating her because
10 of her race and because of engaging in protected activity of reporting what she
11 believed to be racial discrimination, which was designed to discourage Plaintiff
12 and others from engaging in this protected activity.
13

14 **V. OTHER CLAIMS**

15 47. Plaintiff reserves the right to conduct discovery into alternative claims and
16 additional defendants and to amend these charges as necessary.
17

18 **VI. PRAYER FOR RELIEF**

19 48. WHEREFORE, Plaintiff prays for judgment against the Defendants, jointly
20 and severally, in such amount as to be proven at trial, including but not limited to,
21 economic and noneconomic damages suffered by Plaintiff, reasonable attorney
22 fees, costs and expenses permitted by law for such other and further relief as the
23 Court deems just, equitable and proper.
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VII. JURY DEMAND

49. A jury of 12 is demanded on all issues so triable.

DATED this 28th day of December, 2020.

SUNLIGHT LAW, PLLC

/s/Favian Valencia

Favian Valencia, WSBA #43802

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